IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3668 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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MANHARLAL CHUNILAL SANGHANI

Versus

BHARATBHAI GHODHABHAI MAKWANA

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Appearance:

1. Criminal Misc.Application No. 3668 of 2001

MR MIHIR H JOSHI for Petitioner No. 1

MR YOGESH S LAKHANI for Respondents No. 1,3

..... for Respondent No. 2

MR RC KODEKAR APP for Respondent No. 4

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CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 22/03/2002

ORAL JUDGEMENT

#. Rule. Learned counsel Shri Lakhani waives service of rule for respondent Nos. 1 & 3. Learned APP Shri Kodekar waives service of rule for respondent-State of Gujarat.

#. During the pendency and final disposal of this application, respondent No.2 Jitendra Patel died, therefore, his name is deleted as respondent No.2.

#. The applicant-original complainant has filed this application against the impugned order dated 11.5.2001 passed by the learned Additional Sessions Judge, Rajkot in Criminal Misc. Application No.620/01 filed by the respondents-accused releasing them on bail on certain terms and conditions.

#. It was agreed by learned counsel for the parties that without assigning any reason and without going into the merits of the impugned order dated 11.5.2001 passed by the learned Additional Sessions Judge passed in Criminal Misc. Application No.620/01 in favour of respondents-accused be set aside and the learned Additional Sessions Judge, other than the judge who decided the previous bail application be directed to decide the bail applications afresh.

#. Hence, without going into the legality and validity of the impugned order dated 11.5.2001 passed in Criminal Misc. Application No.620/01 by the learned Additional Sessions Judge, Rajkot releasing the respondents-accused on bail, the same is hereby quashed and set aside and the matter is remitted to the learned Sessions Judge, Rajkot with a direction to assign the matter to any other Additional Sessions Judge, other than the judge who decided the matter, for deciding the same afresh. The concerned Judge may decide the bail application filed by the respondents-accused afresh after hearing all the learned counsel for the parties i.e. counsel for the accused, complainant and learned PP. It is hoped and trust that while deciding the said bail application, the learned Judge shall assign brief reasons dealing with the contentions raised by the parties before him, so that, in future, if that order is challenged by either side then the same can be effectively judged by the higher forum.

#. The learned Judge is directed to decide the bail application as early as possible and not later than 30.4.2002. Till then, the respondents shall continue to remain on bail on the same terms and conditions imposed earlier by the learned Additional Sessions Judge by his order dated 11.5.2001 passed in Criminal Misc.

Application No.620/01. It goes without saying that the learned Judge while deciding the bail application afresh, shall not be influenced by the order passed by this court or the order passed by the learned Additional Sessions Judge. D.S. permitted to the parties. Rule discharged.

(B.J.Shethna, J.)

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